

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Rev. No. 46 of 2001

Date of decision: 13.7.2007

Sangat Ram and another

Petitioners

Versus

State of H.P.

Respondent

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

***Whether approved for reporting?*¹**

For the Petitioner: Mr. K.D.Sood, Advocate

For the Respondent :Mr. R.M.Bisht, Deputy Advocate General.

Deepak Gupta, J.

This petition is directed against the order of the learned Sessions Judge, Kullu in Criminal Appeal No. 5 of 2000 whereby he has affirmed the order of Judicial Magistrate Ist Class, Manali sentencing the petitioner and one Jindu Ram of having committed offence under Section 467 read with Section 151 IPC and sentencing them to undergo simple imprisonment for 3 months.

The undisputed facts are that one Mainu Devi impersonated as her sister Bodhi Devi. She went to PW-4 Om Parkash Sharma, Advocate and got a will executed in

¹ ***Whether the reporters of the local papers may be allowed to see the Judgment?***

favour of herself while posing as Bodhi Devi. This will was challenged by Bodhi Devi and her step son, Tek Ram. A complaint was lodged with the Additional Chief Judicial Magistrate, Kullu and on the basis of this complaint, FIR No. 10 of 1995 was lodged against accused Mainu Devi, Jindu Ram and Sangat Ram.

The case of the prosecution is that Mainu Ram impersonated as Bodhi Devi. She then got a will drafted from PW-4, Om Parkash Sharma, Advocate, in her own favour. Om Parkash Sharma, Advocate, clearly states that he did not know Bodhi Devi or Mainu Devi. However, Mainu Devi had appeared before him and claimed to be Bodhi Devi. She was identified by Jindu Ram. On the identification of Jindu Ram he drafted the will. Petitioner Sangat Ram was the attesting witness to the will. Mainu Devi died during the course of trial itself. The trial court convicted both, Sangat Ram and Jindu Ram. Appeal filed by them was dismissed by the lower appellate court. The present revision was filed by both, but Jindu Ram also died during the pendency of the petition and the only surviving accused is Sangat Ram.

The only allegation against Sangat Ram is that he has attested the will. There is no allegation that he

knew Bodhi Devi or Mainu Ram. There is no allegation that he identified Mainu Devi to be Bodhi Devi. There is also nothing to show that he had conspired with the other two accused. There is no evidence on record to show that he even knew Mainu Devi or Bodhi Devi prior to the execution of the will. Therefore, I am of the considered view that Sangat Ram could not have been convicted.

In view of the above discussion, the revision petition is allowed, judgments of both the courts below are set aside and the conviction and sentence passed against the petitioner is hereby set aside. The bail bonds of the accused-petitioner are discharged.

July 13, 2007(K)

(Deepak Gupta), J.